BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of Developing a Unified Intercarrier Compensation Regime	CC Docket No. 01-92

REPLY COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE CALIFORNIA PUBLIC UTILITIES COMMISSION

The People of the State of California and the California Public Utilities Commission ("California" or "CPUC") hereby respectfully submit these reply comments in the above-entitled proceeding. In particular, California's comments will respond to those filed by SBC Communications Inc. ("SBC"), Verizon and Cellular Telecommunications and Internet Association ("CTIA").

I. SBC'S PROPOSALS ARE FAR BEYOND THE SCOPE OF THIS PROCEEDING AND SHOULD NOT BE ENTERTAINED

In this proceeding, the FCC seeks to reconsider current, regulated forms of intercarrier compensation by which telecommunications carriers pay each other for interconnecting their networks. According to the FCC, it is "particularly interested in identifying a unified approach to intercarrier compensation – one that would apply to interconnection arrangements between all types of carriers interconnecting with the local telephone network, and to all types of traffic passing over the local telephone network." Notice of Proposed Rulemaking ("NPRM ") ¶ 2.

In our comments, California stated that bill-and-keep compensation for interstate access charges would be wholly inappropriate because such move could result in unreasonable end user rate increases, would allow interexchange carriers uncompensated use of local exchange carrier networks, and would be counter to section 254 (k) of the Telecommunications Act of 1996 ("1996 Act") because it would force end users to bear in local rates an unreasonable share of the joint and common costs of the network.[1] At bottom, California cautioned the FCC to look at the reasonableness of the results on captive end use customers who ultimately shoulder the costs of interconnection before modifying the interstate intercarrier compensation regime.[2]

In response to the FCC's NPRM, SBC ignores these concerns and invites the FCC to engage in a wholesale revision of major regulatory efforts undertaken by the FCC since the adoption of the 1996 Act, with serious and adverse consequences for captive customers. Among other things, such review would revisit the use of a forward-looking cost methodology to promote competition; increase the $650 million federal universal service support fund adopted for high cost areas; and revisit what constitutes "affordability" under section 254 of the 1996 Act – all in advance of addressing intercarrier compensation issues. In addition, SBC asks the FCC to direct states to raise residential local service rates; revamp state universal service support mechanisms; establish requirements for state end user recovery mechanisms; and direct that state universal service support mechanisms mirror federal mechanisms. On top of all this,

[1] California Comments at 2, 3, 6-8.

[2] California Comments at 3.

SBC asks the FCC to give carriers complete pricing flexibility for all wholesale and retail services.

SBC's wish list is far beyond the scope of this proceeding and should not be considered.[3] Not only is it procedurally improper, but it is fraught with numerous, unsupported assumptions and dubious legal conclusions that seriously and negatively affect captive end use customers. These include the unsupported assumptions that residential local service prices are not self supporting, such that "the Commission should focus on increasing residential service prices";[4] that the FCC has "underpric[ed] the ILECs' wholesale products in a futile attempt to stimulate competition;" [5] that federal and state regulators have failed to replace the vast majority of implicit subsidies with explicit recovery; that access charges still contain implicit subsidies; and that regulators have attempted to manufacture competition in the residential market by forcing the incumbent local exchange carriers ("ILECs") to lease their facilities below cost.[6] SBC further concludes that the FCC has authority to allow ILECs to raise residential local service prices;[7] to direct state pricing structures to comply with FCC regulations;[8] and to determine how ILECs may replace intrastate access charges with end user recovery

[3] Of the large ILECs, SBC's proposal singularly stands out as far beyond the scope of this proceeding. But see also Verizon comments challenging use of telephone numbers for allegedly improper purposes.

[4] SBC Comments at 21.

[5] SBC Comments at 21 n.33.

[6] SBC Comments at 48.

[7] SBC Comments at 31.

[8] SBC Comments at 32.

mechanisms.[9] Nothing in the 1996 Act demonstrates that Congress intended such a wholesale encroachment on state authority.

In short, the FCC should reject SBC's invitation to expand the scope of this proceeding. Consistent with Verizon's cautionary words, "the Commission should not jump into such a major shift without carefully analyzing the results and thinking through all the possible ramifications." [10]

At a minimum, the FCC should obtain greater experience and information regarding the results of the CALLS and MAG plans and the revisions to competitive local exchange carrier ("CLEC") access charges before it concludes that any public benefit results from further revision of access charge regimes. SBC's assumption that access charges remain above cost and continue to subsidize universal service cannot be tested absent a detailed examination of a LEC's rates and costs, and should not be relied upon as the basis for any further changes to access charges at this time.

II. THE NUMBERING ISSUES RAISED BY VERIZON ARE BEYOND THE SCOPE OF THIS PROCEEDING

In its comments, Verizon cautions the FCC to take a measured and focused approach in determining whether to revise intercarrier compensation mechanisms that have been in place for over twenty years. California agrees. Whether there should be a single intercarrier compensation regime for interstate access arrangements raises complex issues with potentially significant adverse impact on end use customers that should not be addressed here.

[9] SBC Comments at 32.

[10] Verizon Comments at 1.

California further agrees that when the FCC does address long-term issues of intercarrier compensation, the FCC should identify the principles that should guide federal policy before undertaking an inquiry that would replace current compensation systems with a single system for all traffic.[11] However, notably absent from Verizon's list of principles is that telecommunications service should remain affordable and accessible to all. A massive shift of $11 billion in interstate access charges collected annually from interexchange carriers[12] should not be shifted to captive end users in the name of economic efficiency or minimization of regulation.

Verizon nevertheless strays from the scope of the FCC's proceeding by asking the FCC to address issues regarding numbering administration and the use of telephone numbers by local exchange carriers. Among other things, Verizon alleges an "abuse of [the] numbering resources scheme." The FCC should reject Verizon's request. The merit of Verizon's allegations can, and should, be dealt with in the FCC's numbering docket in order to allow interested parties to address Verizon's discrete issues. Such issues do not belong in this proceeding.

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[11] Verizon Comments at 11.

[12] Verizon Comments at 18.

III. CONGRESS DID NOT DIVEST THE STATES OF AUTHORITY OVER CMRS-LEC INTERCONNECTION

In our initial comments, California discussed the scope of state authority under section 332 (c) of the Communications Act, and Congress' express intent in adopting the 1996 Act not to divest the states of authority over terms and conditions governing interconnection arrangements. See section 601(c) of 1996 Act.

In its comments, the CTIA claims that the FCC has plenary authority over interconnection between commercial mobile radio service providers and local exchange carriers. CTIA misreads section 332(c) and its legislative history. Both indicate that Congress intended to divest the states of authority over entry and the retail rates charged by CMRS providers to its customers. Congress, however, expressly reserved to the states authority over the "terms and conditions" of commercial mobile services, including, as the legislative history demonstrates, "the requirement that carriers make capacity available on a wholesale basis." As California discussed, that requirement necessarily includes the prescription of wholesale rates for network capacity that can be utilized by competing carriers.

IV. CONCLUSION

In the end, the goals of equity and fairness to ensure the reasonableness of end user rates are the overarching principles that must underlie any revision of intercarrier compensation regimes. A wholesale transference to end use customers of costs currently recovered in access charges, federally-mandated increases in local residential rates, and further increases in federal universal service funding will thwart these principles, and

negate the central purpose of national telecommunications policy -- that telecommunications service is made available and affordable to all.

Respectfully submitted,

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November 5, 2001

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a certified copy of the foregoing document **"REPLY COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE CALIFORNIA PUBLIC UTILITIES COMMISSION"** on all known parties to **CC Docket No. 01-92** who have e-mail addresses.

Executed in San Francisco, California, this 5th day of November, 2001.

/s/ ELLEN S. LEVINE

Ellen S. LeVine